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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/715,633	11/18/2003	Walter A. Dorfstatter	GP-302837	4329

7590 05/06/2008
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EXAMINER

SOREY, ROBERT A

ART UNIT	PAPER NUMBER
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4194

MAIL DATE	DELIVERY MODE
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05/06/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/715,633

Applicant(s)

DORFSTATTER, WALTER A.

Examiner

ROBERT SOREY

Art Unit

4194

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 March 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Notice to Applicant

1. In the amendment filed 03/10/2008, the following occurred: claims 1, 2, and 5 were amended.

Response to Amendments

2. Both disclosure and claim objections are withdrawn due to appropriate amendments by applicant.
3. The further addition and use of a comma between the words "damage" and "comprising" in the preamble of claims 1, 2, and 5 add nothing to the substance of the claimed invention but do further clarify the invention; therefore, those changes have been accepted as well.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S.

Patent No. 6,064,970 to McMillan et al. in view of U.S. Patent No. 6,470,303 to Kidd et al.

As per claim 1, McMillan et al. teaches a method for estimating vehicle damage, comprising the steps of:

--the claimed sensing a vehicle incident is met by vehicle operational data recording systems having been suggested for identifying the cause of an accident and therefore an accident (106 and 108, Fig. 1)(see: column 2, lines 54-59);

--the claimed automatically sending vehicle incident data to a service center is met by an immediate upload of trigger event data to a central control center (110 and 112, Fig. 1)(see: column 8, lines 66-67);

--the claimed utilizing the estimated vehicle damage in a vehicle insurance decision process is met by the analyzed sensor data with the purpose of being used as determinant rating factors in a vehicle insurance process (Fig. 2)(see: column 5, lines 40-43).

McMillan et al. fails to teach:

--the claimed using the incident data to automatically estimate [[a]] the vehicle damage;

Kidd et al. teaches a method of automatically estimating vehicle damage based on provided vehicle incident data (see: abstract).

One of ordinary skill in the art at the time the invention was made would have found it obvious to estimate vehicular incident damage using the estimation methods known to those in the industry as taught by Kidd et al. (see: column 1, lines 44-52) within the methodology of sensing, recording, and transmitting vehicle incident data to an insurance customer service center for insurance decision processing as taught by McMillan et al. (see: column 9, lines 30-33) because this provides the insurance carrier with incident notification sooner for quicker processing.

6. Claims 2-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,064,970 to McMillan et al. in view of U.S. Patent No. 6,470,303 to Kidd et al. in view of PGPub U.S. 20050108063, Madill et al., and further in view of Official Notice.

As per claim 2, McMillan et al. teaches a method for estimating vehicle damage, comprising the steps of:

- the claimed sensing a vehicle incident is met by vehicle operational data recording systems having been suggested for identifying the cause of an accident and therefore an accident (106 and 108, Fig. 1)(see: column 2, lines 54-59);

- the claimed obtaining an incident delta velocity from the vehicle incident is met by the types of elements monitored and recorded including rapid deceleration and rapid acceleration (see: columns 7-8, lines 67-1);

- the claimed sending the incident delta velocity to a service center is met by an immediate upload of trigger event data to a central control center (110 and 112, Fig. 1)(see: column 8, lines 66-67);

McMillan fails to teach:

- the claimed at the service center, using the incident delta velocity with vehicle identification information to automatically estimate a vehicle damage value;

The obviousness of combining the teachings of Kidd et al. within the method taught by McMillan et al. in regard to estimating vehicle damage using delta velocity is discussed in the rejection of claim 1 and incorporated herein.

McMillan also fails to teach:

--the claimed receiving a claim damage estimate;

The Examiner takes Official Notice that an insurance carrier receiving a claim damage estimate for analysis is old and well known in the insurance industry. For example, when an insured customer is involved in an automobile accident, he or she may submit an estimate for repairs from the body or repair shop to the insurance carrier and thereby file a claim. Therefore, it would have been obvious at the time the invention was made to include claim damage estimate submission requirements to facilitate claims processing.

McMillan also fails to teach:

--the claimed comparing the automatically estimated vehicle damage value to the claim damage estimate; and

--the claimed in response to the comparison, making an insurance claim-processing related decision.

Madill et al. teaches a method for assessing the potential for fraud of an insurance claim based the comparison of at least one data request element disclosed in the claim to additional insurance data (see: abstract). In addition, based on an assessment such as the one just mentioned, Madill et al. teaches methodology for making investigatory insurance claim-processing related decisions (Fig. 3)(see: paragraphs 64-65).

One of ordinary skill in the art at the time the invention was made would have found it obvious to make an insurance claim-processing related decision based on an automatic comparison of the estimated data elements as taught by Madill et al. within

the methodology of sensing a vehicle incident, calculating delta velocity, sending said computed data to a service center as taught by McMillan et al. within the methodology of automatically estimating vehicle damage based on said provided incident data as taught by Kidd et al., because this would efficiently allocate investigative resources and may result in cost savings.

As per claim 3, Madill et al. teaches the claimed step of making an insurance claim-processing related decision includes requiring an insurance inspection if the automatically estimated vehicle damage value differs by more than a predetermined amount from the claim damage estimate as met by the determination to take further investigative action based on a claim if certain indicators surpass a certain threshold (307 and 309, Fig. 3)(see: Detailed Description of Several Embodiments, paragraph 64).

As per claim 4, Madill et al. teaches the claimed step of making an insurance claim-processing related decision includes omitting an insurance inspection if the automatically estimated vehicle damage value is consistent with the claim damage estimate as met by the determination to not take further investigative action if certain indicators do not meet a certain threshold (307 and 311, Fig. 3)(see: paragraph 65).

As to claim 5, see discussion of claim 2 above as the system form of the claim 2 method is rejected here in a like manner: McMillan et al. further discloses systems elements for a module sensing an occurrence of a vehicle incident and developing incident data responsive thereto (106 and 108, Fig. 1)(see: column 2, lines 54-59); an in-vehicle transceiver for automatically sending vehicle incident data to a service center

(Fig. 3)(see: column 5, lines 61-63); Kidd et al. discloses the system element of an estimator within the service center using the incident data to automatically estimate a vehicle damage value (see: abstract); and Madill et al. discloses the system element of a decision processor providing a business recommendation responsive to the estimated vehicle damage value (see: paragraph 7).

As to claim 6, see discussion of claim 3 above as the system form of the claim 3 method is rejected here in a like manner: Madill et al. further discloses a system wherein providing feedback indicating that additional investigation is warranted (Fig. 3)(see: paragraph 58).

As to claim 7, see discussion of claim 4 above as the system form of the claim 4 method is rejected here in a like manner: Madill et al. further discloses a system wherein providing feedback indicating that additional investigation is unnecessary (Fig. 3)(see: paragraph 58).

Response to Arguments

7. Applicant's arguments filed on 3/10/2008 have been fully considered by they are not persuasive. Applicant's arguments will be addressed herein below in the order in which they appear in the response filed 3/10/2008.

8. In the remarks the Applicant argues in substance that (1) McMillan et al. teaches operator and vehicle driver characteristics which are not the same as vehicle incident data used to automatically estimate vehicle damage; (2) that Kidd et al. teaches away from the claimed invention because Kidd does not teach that vehicle incident data is

automatically sent to a service center, where the service center automatically estimate the vehicle damage; (3) that McMillan et al. and Kidd et al. fail to teach “using the incident delta velocity with vehicle identification information to automatically estimate a vehicle damage”; and (4) that McMillan et al. and Kidd et al. fail to teach “an estimator within the service center using the incident data to automatically estimate a vehicle damage value”.

9. In response to Applicant’s argument that (1) McMillan et al. teaches operator and vehicle driver characteristics is not the same as vehicle incident data used to automatically estimate vehicle damage, the Examiner respectfully submits that operator and vehicle driver characteristics as taught by McMillan et al. are equivalent to vehicle incident data.

Specifically, McMillan et al. teaches vehicle operating data recorded for the purpose of identifying the cause of an accident, that that “[m]any types of vehicle operating data recording systems have heretofore been suggested for the purposes of maintaining an accurate record of certain elements of vehicle operation. Some are suggested for identifying the cause of an accident...” (see: McMillan et al., column 2, lines 54-59). Data detected and recorded during an incident - moreover, used to identify the cause of an accident - is equivalent to vehicle incident data. Furthermore, McMillan et al. teaches delta velocity (see: McMillan et al., column 7, line 67 and column 8, line 1, is met by “rapid deceleration” and “rapid acceleration”), which is commonly used vehicle incident data. Kidd et al. was relied on for damage assessment. Had McMillan et al. taught damage assessment, the rejection would have been under 35 U.S.C. 102.

10. In response to Applicant's argument that (2) Kidd et al. teaches away from the claimed invention because Kidd does not teach that vehicle incident data is automatically sent to a service center, where the service center automatically estimates the vehicle damage, the Examiner respectfully submits that Kidd et al. does indeed teach automatically estimating vehicle damage based on incident data.

Specifically, the incident data sensed, recorded, and transmitted using McMillan et al.'s invention could be configured by one of ordinary skill in the art at the time the invention was made to be utilized by Kidd et al.'s invention via the input component (see: Kidd et al., column 3, lines 3-26) whereupon the incident data, such as delta velocity, could be used by the processor to automatically calculate a "repair estimate" using computers instead of highly trained accident re-constructionists (see: column 4, lines 1-20). While Kidd et al. does not teach automatically sending incident data to a service center, McMillan et al. does (110 and 112, Fig. 1)(see: McMillan et al., column 8, lines 66-67) and Kidd et al. teaches a means by which to automatically obtain said data (see: Kidd et al., column 3, lines 3-26). Applicant cites differences between McMillan et al. and Kidd et al. but does not clearly cite any passage of either reference which shows them to be incompatible.

11. In response to Applicant's argument that (3) McMillan et al. and Kidd et al. fail to teach "using the incident delta velocity with vehicle identification information to automatically estimate a vehicle damage", the Examiner respectfully submits that McMillan et al. and Kidd et al. teach the claimed limitation.

Specifically, McMillan et al. teaches:

--*using the incident delta velocity* (see: McMillan et al., column 7, line 67 and column 8, line 1, is met by sensing and recording the vehicle's "rapid deceleration" and "rapid acceleration") *with vehicle identification information* (see: McMillan et al., column 1, lines 27-35, is met by identifying the vehicle "age", "manufacturer" and "model"; moreover, identifying the vehicle is obvious when implementing a "motor vehicle monitoring system for determining a cost of insurance" (see: McMillan et al., title) as McMillan et al. does, otherwise it would be impossible to reward specific drivers for good driving as McMillan et al. teaches) *to automatically estimate a vehicle damage* (see: Kidd et al., column 4, lines 1-20, is met by incident data, such as delta velocity, usable by the processor to automatically calculate a "repair estimate" using computers instead of highly trained accident re-constructionists (see: column 4, lines 1-20)).

12. In response to Applicant's argument that (4) McMillan et al. and Kidd et al. fail to teach "an estimator within the service center using the incident data to automatically estimate a vehicle damage value", the Examiner respectfully submits that McMillan et al. and Kidd et al. teach the claimed limitation.

Specifically, Kidd et al. teaches the use of incident data, such as delta velocity, as being usable by the processor to automatically calculate a "repair estimate" using computers instead of highly trained accident re-constructionists (see: column 4, lines 1-20), which is equivalent to "an estimator within the service center using the incident data to automatically estimate a vehicle damage value".

Conclusion

13. As no significant amendments were made and no new grounds for rejection were need to traverse Applicant's arguments, **THIS ACTION IS MADE FINAL**. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **ROBERT SOREY** whose telephone number is (571)270-3606. The examiner can normally be reached on Monday through Friday 7:30AM to 5:00PM (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Kyle can be reached on (571) 272-6746. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 4194

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Robert Sorey/
Examiner, Art Unit 4194
1 May 2008

/Charles R. Kyle/
Supervisory Patent Examiner, Art Unit 4194